

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

<b>ANGELO VERNON McCLEARY,</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>No. CIV 20-032-RAW-SPS</b>
	)	
<b>JAMES YATES, et al.,</b>	)	
	)	
Defendants.	)	

**OPINION AND ORDER**

Plaintiff, a pro se prisoner who is incarcerated at Dick Conner Correctional Center in Hominy, Oklahoma, commenced this civil rights action on January 29, 2020 (Dkt. 1). As discussed below, the action shall be dismissed without prejudice for Plaintiff's failure to comply with the Court's orders.

As an initial matter, Plaintiff has filed a motion for change of venue (Dkt. 16). The proper venue for Plaintiff's action is in the "judicial district in which any defendant resides" or the "judicial district in which a substantial part of the events or omissions giving rise to the claim occurred." 28 U.S.C. § 1391(b)(1-2). All the defendants in this action are located within the Eastern District of Oklahoma, and the alleged events or omissions occurred in this district. To the extent Plaintiff alleges that Black individuals are not treated fairly in the Oklahoma courts, and he requests a Black judge, a Black federal investigator, and a Black Attorney General, he has made no specific allegations of racial bias in the Eastern District of Oklahoma. For these reasons, Plaintiff's motion for change of venue (Dkt. 16) is DENIED.

Regarding Plaintiff's failure to comply with the Court's Orders, the record shows that on March 5, 2020, Plaintiff was directed to file an amended complaint in accordance with the Court's instructions (Dkt. 8). On March 25, 2020, Plaintiff filed an amended complaint (Dkt. 9), however, it did not comply with the Court's directions. Specifically, the amended complaint listed ten defendants in the caption but only five defendants in the body of the document. In addition, the amended complaint failed to set forth how each defendant was personally involved in the alleged violation of Plaintiff's constitutional rights. Therefore, on August 6, 2020, Plaintiff was directed to file a second amended complaint in accordance with the Court's instructions (Dkt. 11).

Plaintiff filed a second amended complaint on August 26, 2020 (Dkt. 12). Again, he failed to comply with the Court's instructions by failing to list the same defendants in the caption as are in the body of the complaint pursuant to Fed. R. Civ. P. 10(a). *See* Dkt. 8 at 3. The second amended complaint lists the following defendants in the caption: Core Civic (Davis Correctional Facility), Ray Larimer, Jamie Lysinger, Barbra Blair, Diana Jones, Angela Jackson, Shaum Baily, Case Mgrs, Wardens, et al. (Dkt. 12 at 1). The body of the complaint, however, includes the following defendants: CoreCivic's-H.S.A.-Ray Larimer, CoreCivic's-Jamie Lysinger, Diana Jomes and Angela Jones, Mrs. Shawm Bailey, and Them Wardens-James Yates and Mark Gentry. *Id.* at 3-4. Even accounting for spelling errors, Plaintiff did not list the same defendants in both the caption and the body of the complaint.


Regarding his grounds for relief, Plaintiff completely failed to state which defendants

personally participated in the alleged constitutional violations, as directed by the Court. (Dkt. 11 at 1 (citing Dkt. 8 at 4)). While Plaintiff set forth four alleged constitutional claims, he did not name any defendants who allegedly personally participated in the violations. (Dkt. 12 at 5-6).

After careful review, the Court finds that Plaintiff has failed to comply with the Court's instructions for filing an amended complaint or a second amended complaint. Further, the Court has warned him that failure to comply would result in dismissal of this action. (Dkt. 8 at 5; Dkt. 11 at 2).

**ACCORDINGLY**, Plaintiff's motion for change of venue (Dkt. 16) is DENIED, all remaining pending motions are DENIED AS MOOT, and this action is DISMISSED WITHOUT PREJUDICE for Plaintiff's failure to comply with the Court's Orders. *See* Fed. R. Civ. P. 41(b) (authorizing dismissal for failure to prosecute or comply with an order of the Court).

**IT IS SO ORDERED** this 11th day of January 2021.

  
Ronald A. White  
United States District Judge  
Eastern District of Oklahoma